

CERTIFICATE OF ELECTRONIC TRANSMISSION

Confirmation No. 6113

I hereby certify that this correspondence for Application No. 10/777,870 is being electronically transmitted to Technology Center 2161, via EFS-WEB, on September 12, 2006.

/Scott A. Stinebruner/
Scott A. Stinebruner, Reg. No. 38,323

September 12, 2006

Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Dennis Steven DeLorme et al.	Art Unit:	2161
Application No.:	10/777,870	Examiner:	Paul Kim
Filed:	February 12, 2004		
For :	METHOD FOR SUPPORTING MULTIPLE FILESYSTEM IMPLEMENTATIONS		

RESPONSE TO SPECIES ELECTION RESTRICTION REQUIREMENT

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is submitted in reply to the Office Action dated August 21, 2006, within the one month period for response.

In the subject Office Action, the Examiner required restriction of the application to one of two species, namely:

- I. Claims 1-7, 16-21 and 22-27 which relate to a method for maintaining a data structure corresponding to an object.
- II. Claims 8-15, which relate to a method for creating an object within a filesystem.

Applicants respectfully traverse the Examiner's species election requirement. First, it is unclear from the Office Action whether the Examiner intended to make a species election requirement or a restriction requirement. MPEP 809.02(a) requires that the Examiner identify species via material in the drawings or specification, and here, the Examiner has merely identified claims that purportedly correspond to the different species, much like is done in a restriction requirement. Second, the Examiner has failed to provide any substantive arguments as

to why the species election requirement is proper. MPEP 808.02 requires that the Examiner establish why there would be a serious burden if no election was made, and in this case, the Examiner has merely made an unsupported and conclusory statement that the inventions require a different field of search. Indeed, the Examiner has not even identified the classes or subclasses to which each species supposedly belongs. Applicants therefore respectfully submit that the Examiner has failed to properly establish the necessity for an election in this Application.

Therefore, Applicants elect, with traverse, the first species, in particular, claims 1-7, 16-21 and 22-27. Accordingly, early and favorable examination of claims 1-7, 16-21 and 22-27 by the Examiner are respectfully requested.

As a final matter, the Examiner asserts that no claims are generic. Given, however, that the basis for the species election is not clear from the Office Action, Applicants are not in a position to concede this point. As such, Applicants reserve the right to argue that certain claims are generic in the future.

If there are any questions regarding this paper, or which might otherwise further this case onto allowance, please contact the undersigned at (513) 241-2324. Moreover, if any other charges or credits are necessary to complete this communication, please apply them to Deposit Account 23-3000.

Respectfully submitted,

September 12, 2006
Date

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